

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 3, 6 and 8-22 were pending in this application when last examined and stand rejected.

Claim 3 is amended to include limitations from claims 10, 12 and 13.

Claim 11 is cancelled without prejudice or disclaimer thereto.

Claims 15-22 are amended to include the phrase "relative to the weight of the fraction which allows prolonged release of efletirizine" in order to clarify the claimed invention.

Support for the amendment to claim 10 can be found in examples 7 and 8 of the specification.

Other amendments to the claims are to clarify the claimed invention and to conform with amendments to the above-mentioned claims.

No new matter has been added.

II. INDEFINITENESS REJECTION

On pages 3-4 of the Office Action, claims 3, 6 and 8-22 were rejected under 32 U.S.C. § 112, second paragraph, as indefinite.

This rejection has been overcome as applied to the amended claims for reasons which are self-evident.

III. OBVIOUSNESS REJECTIONS

On pages 4-5 of the Office Action, claims 3, 6, 8, 9, 11, 14-18 and 20-22 were rejected under 35 U.S.C. § 103(a) as obvious over US 5,043,167 to Rotini in view of DERWENT-ACC-No 1999-585815, US 5,869,479 to Kretner and US 3,906,086 to Guy.

Further, on pages 5 and 6, claims 10 and 12 were rejected under 35 U.S.C. § 103(a) as obvious over US 5,043,167 to Rotini in view of DERWENT-ACC-No 1999-585815, US 5,869,479 to Kretner and US 3,906,086 to Guy and in further view of US 6,274,168 to Addicks.

Finally, on page 6, claim 19 was rejected under 35 U.S.C. § 103(a) as obvious over US 5,043,167 to Rotini in view of DERWENT-ACC-No 1999-585815, US 5,869,479 to Kretner and US 3,906,086 to Guy and in further view of US 4,966,768.

Applicants respectfully traverse these rejections as applied to the amended claims for reasons of record and for the following reasons.

Claim 3, the only pending independent claim, is directed towards a pharmaceutical composition consisting essentially of efletirizine as active principal with at least one immediate release fraction and at least one prolonged release fraction. The respective amounts of active principal in these two fractions are dictated by the equations noted in the claim. In order to expedite prosecution and without acquiescence to the correctness of the rejections, claim 3 has been amended to further indicate that the prolonged release fraction contains the noted amounts of hydroxypropylmethylcellulose, dibasic calcium phosphate, polyvinylpyrrolidone, colloidal silica and magnesium stearate. Further, this claim has been amended without prejudice to indicate that the immediate release fraction contains lactose monohydrate, microcrystalline cellulose, colloidal silica and magnesium stearate.

Applicants note that claim 3 has been amended to include the limitations of claim 13, and intervening claim 12. Claim 13 was only rejected under 35 U.S.C. § 112. Such concerns have been overcome, as noted above. Thus, claim 3 is in condition for allowance.

Applicants further note amended claim 10 recites specific amounts of the immediate release fraction components.

Applicants note that none of the cited references teach or suggest these components in the specified amounts. Thus, the above-noted rejections are untenable and should be withdrawn.

Turning now to the Declaration submitted with the response of February 23, 2007, it is further noted that the composition of the prolonged release fraction of claim 3 is the same as the composition of the prolonged release fraction given in the table on page 21 of this Declaration. Thus, Applicants note that claim 3 is commensurate in scope with this Declaration. Thus, the invention of claim 3 embodies the unexpected results shown in this Declaration. Such unexpected results are neither taught nor suggested by the cited art. Therefore, Applicants suggest that amended claim 3 and all claims dependent upon amended claim 3 are not rendered obvious by the cited references.

For these reasons, Applicants suggest that these rejections are untenable and should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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